

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON

DOUGLAS LELAND ADCOCK,)	
)	
Plaintiff,)	Case No. 04-1307-KI
)	
vs.)	OPINION AND ORDER
)	
DELL SCHOMBURG,)	
)	
Defendant.)	

Douglas Adcock
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Salem, Oregon 97301

Pro Se Plaintiff

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KING, Judge:

Before me is a Petition for Reconsideration (#40), and Additional Information for Reconsideration (#41) filed by defendant Douglas Adcock.

By Opinion and Order dated September 12, 2005, I granted the motion to dismiss of Dell Schomburg, the Chaplain at Santiam Correctional Institution, since Adcock had not exhausted his administrative remedies. Specifically, I found that Adcock had received a response to his grievance but that he had failed to request review of that response within the prison system prior to filing his complaint. In his motion for reconsideration, Adcock asserts that he mailed his complaint on or about August 6, 2004, before he received a response to his grievance, presumably in support of his earlier argument that there was no administrative remedy available to him due to the lengthy delay in responding to his grievance.

A Motion for Reconsideration of a court's order must show newly discovered evidence, a change in controlling law, or that the decision was clearly erroneous or manifestly unjust. School Dist. No. 1J, Multnomah County v. ACandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). None of these grounds exist here.

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Adcock previously stated he filed his complaint on August 6, 2004, and I rejected that assertion. The record reflects that Adcock signed his complaint on September 9, 2004, directly refuting his statement that he mailed his complaint on August 6, 2004. The complaint was docketed by the court on September 15, 2004. Finding no reason to reconsider my order, I deny Adcock's Petition for Reconsideration (#40).

IT IS SO ORDERED.

Dated this 23rd day of November, 2005.

/s/ Garr M. King
Garr M. King
United States District Judge